

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

TAURUS BROWN	§	
TDCJ-CID #877566	§	
v.	§	C.A. NO. C-08-170
	§	
CHRISTOPHER CARR, ET AL.	§	

**ORDER DENYING MOTION TO COMPEL AND SANCTIONS**

This is a civil rights action filed by a state prisoner pursuant to 42 U.S.C. § 1983. Pending is plaintiff's motion for an order compelling discovery and for sanctions. (D.E. 88). Specifically, he seeks to compel answers in three different depositions by written questions. The deponents are defendant Christopher Carr, Officer Vince Aguilar, and inmate Christopher Owens. Id. at 1-2.


As a general rule, the deponent is required to answer the deposition questions notwithstanding any objections by counsel. E.g., GMAC Bank v. HTFC Corp., 248 F.R.D. 182, 190-91 (E.D. Pa. 2008); Oleson v. Kmart Corp., 175 F.R.D. 560, 568 (D. Kan. 1997). Here, plaintiff has failed to attach the depositions by written questions including the portions where the deponents failed to answer the questions. Thus, the questions and the context of the refusal to answer them is unknown. Without this information, a ruling cannot be made on whether a deponent failed to answer a question and if so whether answers should be compelled.

Moreover, the Federal Rules of Civil Procedure require that any party seeking to depose by written questions someone "confined in prison" must first obtain leave of the court. Fed. R. Civ. P. 31(a)(2)(B); accord Whitehurst v. United States, 231 F.R.D. 500, 501 (S.D. Tex. 2005). Plaintiff has not sought leave to depose inmate Christopher Owens and thus does not have

authority to depose him by written questions.<sup>1</sup>

Accordingly, plaintiff's motion for an order compelling discovery and for sanctions, (D.E. 88), is DENIED without prejudice.

ORDERED this 3rd day of March 2009.



BRIAN L. OWSLEY  
UNITED STATES MAGISTRATE JUDGE

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<sup>1</sup> Plaintiff was granted leave to depose by written questions another inmate, Darryl Love. (D.E. 75).